



House of Representatives

General Assembly

File No. 205

January Session, 2013

Substitute House Bill No. 5761

House of Representatives, March 27, 2013

The Committee on Public Health reported through REP. JOHNSON of the 49th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-528a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2013*):

3 For any application of licensure for the acquisition of a nursing
4 home filed after July 1, 2004, any potential nursing home licensee or
5 owner shall submit, in writing, a change in ownership application with
6 respect to the facility for which the change in ownership is sought.
7 Such application shall be prescribed by the Commissioner of Public
8 Health and include such information as the commissioner deems
9 necessary. The application shall include the following statement
10 printed in not less than eighteen-point boldface type of uniform font
11 on the first page of the application: "NOTICE: Any nursing home
12 licensee, owner or officer, including, but not limited to, a director,
13 trustee, limited partner, managing partner, general partner or any
14 person having at least a ten per cent ownership interest, and any

15 administrator, assistant administrator, medical director, director of
16 nursing or assistant director of nursing, may be subject to criminal
17 liability, in addition to civil and administrative sanctions under federal
18 and state law, for the abuse or neglect of a resident of the nursing
19 home perpetrated by an employee of the nursing home.". The
20 application shall also include [such information as the Commissioner
21 of Public Health deems necessary and] whether such potential nursing
22 home licensee or owner (1) has had three or more civil penalties
23 imposed through final order of the commissioner in accordance with
24 the provisions of sections 19a-524 to 19a-528, inclusive, or civil
25 penalties imposed pursuant to the statutes or regulations of another
26 state, during the two-year period preceding the application, (2) has
27 had in any state sanctions, other than civil penalties of less than twenty
28 thousand dollars, imposed through final adjudication under the
29 Medicare or Medicaid program pursuant to Title XVIII or XIX of the
30 federal Social Security Act, 42 USC 301, as from time to time amended,
31 or (3) has had in any state such potential licensee's or owner's
32 Medicare or Medicaid provider agreement terminated or not renewed.
33 In the event that a potential nursing home licensee or owner's
34 application contains information concerning civil penalties, sanctions,
35 terminations or nonrenewals, as described in this section, the
36 commissioner shall not approve the application to acquire another
37 nursing home in this state for a period of five years from the date of
38 final order on such civil penalties, final adjudication of such sanctions,
39 or termination or nonrenewal, except for good cause shown.

40 Sec. 2. (NEW) (*Effective October 1, 2013*) The Commissioner of Public
41 Health shall prepare a notice that includes the following statement
42 printed in no less than eighteen-point boldface type of uniform font:
43 "NOTICE: Any nursing home licensee, owner or officer, including, but
44 not limited to, a director, trustee, limited partner, managing partner,
45 general partner or any person having at least a ten per cent ownership
46 interest, and any administrator, assistant administrator, medical
47 director, director of nursing or assistant director of nursing, may be
48 subject to criminal liability, in addition to civil and administrative
49 sanctions under federal and state law, for the abuse or neglect of a

50 resident of the nursing home perpetrated by an employee of the
 51 nursing home.". Not later than January 1, 2014, said commissioner
 52 shall provide such notice to all persons who hold a license to establish,
 53 conduct, operate or maintain a nursing home in the state as of October
 54 1, 2013.

55 Sec. 3. (NEW) (*Effective October 1, 2013*) The statement that the
 56 Commissioner of Public Health is required to include in change in
 57 ownership applications pursuant to section 19a-528a of the general
 58 statutes, as amended by this act, and prepare as a notice to be provided
 59 to certain licensees pursuant to section 2 of this act, shall not be
 60 construed as expanding or otherwise affecting the liability of nursing
 61 home licensees and owners that may exist at law for the abuse or
 62 neglect of a resident of the nursing home.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	19a-528a
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section

Statement of Legislative Commissioners:

In section 1, the words "Department of Public Health shall prepare the change in ownership" and the word "which" were deleted in the third sentence and the word "Such" was replaced with "The" and "also" was inserted before "include" in the fourth sentence for conciseness. In section 2, "Department" was replaced by "Commissioner" in the first sentence and the second sentence was rephrased for consistency and clarity. In section 3, "Department" was replaced by "Commissioner" and "of" was replaced with "in" for consistency.

AGE *Joint Favorable C/R*

PH

PH *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Public Health, Dept.	GF - Cost	less than 350	None

Municipal Impact: None

Explanation

There is a cost of less than \$350 to the Department of Public Health (DPH) in FY 14 to provide a printed notice of criminal liability no later than 1/1/14 to all Connecticut nursing home administrators licensed as of 10/1/13. This cost includes expenses for letterhead paper, window envelopes, toner and postage. As of 3/12/13, there are 753 active nursing home administrator licenses in Connecticut and 48 such licenses are pending, anticipated to be active by 10/1/13. DPH has email addresses for 231 actively licensed nursing home administrators. Assuming 75% of these addresses are still valid, necessary hardcopy notification is reduced by 173 individuals, resulting in the need for 628 mailed notices. There is no fiscal impact to DPH from requiring inclusion of this notice in change of nursing home ownership applications starting 10/1/13, as this application is provided online.¹

The Out Years

There is no fiscal impact associated with this bill in the future.

Sources: State of Connecticut's eLicensing Website

¹Should DPH choose to provide this application in hardcopy, there is space available in the application documents to provide this notice without additional resources.

OLR Bill Analysis**sHB 5761*****AN ACT CONCERNING NOTIFICATION TO POTENTIAL AND EXISTING NURSING HOME OWNERS.*****SUMMARY:**

This bill requires the Department of Public Health (DPH) to prepare a written application form for changes in nursing home ownership that includes a statement notifying the potential nursing home licensee or owner that he or she may be held criminally liable for abuse or neglect of a resident by a nursing home employee. Specifically, it requires the following statement to be placed at the top of the first application page in at least 18-point boldface type:

“NOTICE: Any nursing home licensee, owner, or officer, including but not limited to, a director, trustee, limited partner, managing partner, general partner, or any person having at least a 10% ownership interest, and any administrator, assistant administrator, medical director, director of nursing or assistant director of nursing, may be subject to criminal liability, in addition to civil and administrative sanctions under federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home.”

The bill also requires DPH to prepare and provide a written copy of the above statement to any person issued a DPH license to establish, conduct, operate, or maintain a nursing home in the state as of October 1, 2013. This notice must be printed in at least 18-point bold face type and provided to licensees by January 1, 2014.

The bill specifies that the notification statement does not expand or otherwise affect any existing statutory liability of nursing home owners or licensees for the neglect or abuse of residents.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

DPH Applications for Nursing Home Ownership Changes

By law, DPH must approve changes in nursing home ownership. The prospective owner's or licensee's written application must include whether the potential nursing home licensee or owner (1) has had civil penalties for nursing home violations imposed by DPH or another state during any two-year period or (2) received intermediate Medicare or Medicaid sanctions or had provider agreements for these programs terminated or not renewed. The law prohibits the DPH commissioner from approving an application to acquire a nursing home for a five-year period if any of these conditions are present, unless good cause is shown (CGS § 19a-528a).

Evaluation Period for New Licensees

If a person has not previously operated a nursing home in Connecticut, DPH can institute an "evaluation period" of up to five years from the time of initial licensure in order to assess the standard of care the nursing home provides. During this evaluation period, the person is prohibited from acquiring any additional nursing homes (CGS § 19a-493a).

COMMITTEE ACTION

Aging Committee

Joint Favorable Change of Reference

Yea 11 Nay 0 (02/14/2013)

Public Health Committee

Joint Favorable

Yea 21 Nay 7 (03/11/2013)